

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

ACE AUTO CARE,

Plaintiff,

v.

NORTHFIELD INSURANCE COMPANY,

Defendant.

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CIVIL ACTION NO. 3:17-cv-02261

DEFENDANT’S NOTICE OF REMOVAL

Defendant Northfield Insurance Company (“Northfield” or “Defendant”) files its Notice of Removal of this action from the 116th Judicial District Court of Dallas County, Texas to the United States District Court for the Northern District of Texas, Dallas Division, the Court for the District and Division encompassing the place where the lawsuit is currently pending. This Notice of Removal is filed pursuant to 28 U.S.C. §§ 1441 and 1446. In support hereof, Defendant shows this Court as follows:

1. On July 25, 2017, Plaintiff Ace Auto Care (“Plaintiff”) commenced an action in the 116th Judicial District Court of Dallas County, Texas, styled *Ace Auto Care v. Northfield Insurance Company*, where it was assigned Cause No. DC-17-08944 (the “State Court Action”).

2. On August 4, 2017, Defendant was served with citation. Removal is timely because thirty (30) days have not elapsed since Defendant was served with a summons or citation. 28 U.S.C. §1446(b)(1); *Murphy Bros. v. Michetti Pipe Stringing, Inc.*, 526 U.S. 344, 354 (1999) (holding that the 30-day deadline to remove begins on the date the summons or citation is served even if the complaint is received at a prior date).

3. Defendant is, contemporaneously with the filing of this Notice, giving written

notice of filing of this Notice of Removal to the clerk of the 116th Judicial District Court of Dallas County, Texas, and will serve a copy of the Notice of Removal on Plaintiff.

4. In accordance with Local Rule 81.1, attached collectively as Exhibit “A” are all materials filed in the state court. Defendant has also filed contemporaneously with this Notice a civil cover sheet, a supplemental civil cover sheet, and a separately signed certificate of interested persons and disclosure statement that complies with Local Rule 3.1(c) and Rule 7.1 of the Federal Rules of Civil Procedure.

GROUND FOR REMOVAL: DIVERSITY

5. This Court has original jurisdiction over this case under 28 U.S.C. § 1332 because this is a civil action between citizens of different States where the matter in controversy exceeds \$75,000.

(a) The amount in controversy exceeds the federal minimum jurisdictional requirements.

6. Plaintiff “seeks monetary relief of over \$100,000.00.” *See* Ex. A-2 at ¶ 1. Accordingly, the amount in controversy meets and exceeds the federal jurisdictional minimum of \$75,000, exclusive of interest and costs.

(b) Complete diversity between Plaintiff and Defendant exists.

7. Plaintiff Ace Auto Care filed this action concerning coverage under an insurance policy issued by Northfield Insurance Company. The named insured under the subject policy is Newroz, Inc. DBA Ace Auto Care. For diversity purposes, corporations “shall be deemed to be a citizen of every State and foreign state by which it has been incorporated and of the State or foreign state where it has its principal place of business” 28 U.S.C. § 1332(c)(1). Plaintiff is a Texas corporation with its principal place of business in Texas. Accordingly, Plaintiff is a citizen of Texas.

8. Defendant is a corporation organized under the laws of the State of Iowa with its principal place of business in the State of Connecticut. Accordingly, Defendant is a citizen of Iowa and Connecticut.

9. Because the amount in controversy exceeds \$75,000 and Plaintiff is a citizen of Texas while Defendant is a citizen of Iowa and Connecticut, this Court has original jurisdiction over the present action pursuant to 28 U.S.C. § 1332. Removal is therefore proper.

WHEREFORE, Defendant prays that the above-described action now pending in the 116th Judicial District Court of Dallas County, Texas be removed to this Court.

Respectfully submitted,

/s/ Wm. Lance Lewis

WM. LANCE LEWIS

State Bar No. 12314560

ALISSA PUCKETT

State Bar No. 24056886

**QUILLING, SELANDER, LOWNDS,
WINSLETT & MOSER, P.C.**

2001 Bryan Street, Suite 1800

Dallas, Texas 75201

(214) 871-2100 (Telephone)

(214) 871-2111 (Facsimile)

llewis@qslwm.com

apuckett@qslwm.com

**ATTORNEYS FOR DEFENDANT
NORTHFIELD INSURANCE COMPANY**

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of this document has been furnished to counsel of record as provided below via certified mail, return receipt requested in accordance with the Federal Rules of Civil Procedure, this 24th day of August 2017:

James M. McClenny
J. Zachary Moseley
Sean Patterson
McCLENNY MOSELEY & ASSOCIATES, PLLC
411 N. Sam Houston Parkway E., Suite 200
Houston, Texas 77060

/s/ Wm. Lance Lewis
Wm. Lance Lewis / Alissa Puckett